

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 478

BY BUSINESS COMMITTEE

AN ACT

RELATING TO ENGINEERS AND SURVEYORS; AMENDING SECTION 54-1212, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY; AMENDING SECTION 54-1213, IDAHO CODE, TO REMOVE PROVISIONS REQUIRING AN APPLICANT FOR CERTIFICATION AS AN ENGINEER INTERN OR LAND SURVEYOR INTERN TO PROVIDE CERTAIN REFERENCES, TO REMOVE PROVISIONS RELATING TO FEES FOR LICENSURE BY EXAMINATION AND TO MAKE A TECHNICAL CORRECTION; AMENDING SECTION 54-1214, IDAHO CODE, TO REVISE REQUIREMENTS RELATING TO WRITTEN EXAMINATIONS; AMENDING SECTION 54-1216, IDAHO CODE, TO REVISE RENEWAL REQUIREMENTS AND EXPIRATION DAYS FOR CERTIFICATES OF AUTHORIZATION ISSUED TO BUSINESS ENTITIES; AMENDING SECTION 54-1220, IDAHO CODE, TO PROVIDE CORRECT TERMINOLOGY RELATING TO ADMINISTRATIVE PROCEEDINGS; AND AMENDING SECTION 54-1223, IDAHO CODE, TO PROVIDE FOR THE DUTY OF RESPONSIBLE CHARGE OF A PROJECT WHEN A LICENSEE IS NOT AVAILABLE TO SEAL, SIGN AND DATE FINAL DOCUMENTS.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 54-1212, Idaho Code, be, and the same is hereby amended to read as follows:

54-1212. GENERAL REQUIREMENTS FOR EXAMINATION AND LICENSE. Except as herein otherwise expressly provided, no license as a professional engineer or professional land surveyor, or certification as an engineer intern or land surveyor intern, shall be issued until an applicant has successfully passed an examination given by or under the supervision of the board, nor shall a license as a professional engineer or professional land surveyor, or certification as an engineer intern or land surveyor intern, be issued to an applicant having habits or character that would justify revocation or suspension of his license or certificate, as provided in section 54-1220, Idaho Code. The following shall be considered as minimum evidence satisfactory to the board that the applicant is qualified for assignment to an examination:

(1) As a professional engineer:

(a) Graduation from an approved engineering ~~curriculum program~~ of four (4) years or more in a school or college approved by the board as being of satisfactory standing, passage of an examination on the fundamentals of engineering acceptable to the board, and a specific record, after graduation, of an additional four (4) years or more of progressive experience in engineering work of a grade and character satisfactory to the board, and indicating that the applicant is competent to practice professional engineering; or

(b) Graduation with a bachelor's degree in a related science from a school or college approved by the board, and evidence satisfactory to the board that the applicant possesses knowledge and skill

1 approximating that attained through graduation from an approved four
2 (4) year engineering ~~curriculum~~ program, passage of an examination on
3 the fundamentals of engineering acceptable to the board, and a specific
4 record, after graduation, of four (4) years or more of progressive
5 experience in engineering work of a grade and character satisfactory
6 to the board and indicating that the applicant is competent to practice
7 professional engineering.

8 (2) As a professional land surveyor:

9 (a) Graduation from an approved surveying ~~curriculum~~ program of
10 four (4) years or more in a school or college approved by the board
11 as being of satisfactory standing, passage of an examination on the
12 fundamentals of surveying acceptable to the board, and a specific
13 record of an additional four (4) years or more of progressive combined
14 office and field experience in land surveying work of a grade and
15 character satisfactory to the board and indicating that the applicant
16 is competent to practice professional land surveying; or

17 (b) Graduation with a bachelor's degree in a related science from
18 a school or college approved by the board as being of satisfactory
19 standing, and evidence satisfactory to the board that the applicant
20 possesses knowledge and skill approximating that attained through
21 graduation from an approved four (4) year surveying ~~curriculum~~ program,
22 passage of an examination on the fundamentals of surveying acceptable
23 to the board, and a specific record of an additional four (4) years
24 or more of progressive combined office and field experience in land
25 surveying work of a grade and character satisfactory to the board and
26 indicating that the applicant is competent to practice land surveying.

27 (3) As an engineer intern:

28 (a) Graduation from or in the last two (2) semesters of an approved
29 engineering ~~curriculum~~ program of four (4) years or more in a school
30 or college approved by the board as being of satisfactory standing and
31 indicating that the applicant is competent to enroll as an engineer
32 intern; or

33 (b) Graduation with a bachelor's degree in a related science from a
34 school or college approved by the board, and evidence satisfactory
35 to the board that the applicant possesses knowledge and skill
36 approximating that attained through graduation from an approved
37 four (4) year engineering ~~curriculum~~ program, and indicating that the
38 applicant is competent to be enrolled as an engineer intern.

39 (c) In the event the applicant qualifies for assignment to the
40 examination during the last two (2) semesters of college under the
41 provisions of section 54-1212(3)(a), Idaho Code, and a passing grade
42 is attained, a certificate will be issued only after the applicant
43 graduates.

44 (4) As a land surveyor intern:

45 (a) Graduation from, or in the last two (2) semesters of, an approved
46 surveying ~~curriculum~~ program of four (4) years or more in a school or
47 college approved by the board as being of satisfactory standing and
48 indicating that the applicant is competent to be enrolled as a land
49 surveyor intern; or

(b) Graduation with a bachelor's degree in a related science from a school or college approved by the board, evidence satisfactory to the board that the applicant possesses knowledge and skill approximating that attained through graduation from an approved four (4) year surveying curriculum program, and indicating that the applicant is competent to be enrolled as a land surveyor intern.

(c) In the event the applicant qualifies for assignment to the examination during the last two (2) semesters of college under the provisions of subsection (4)(a) of this section, and attains a passing grade, a certificate shall be issued only after the applicant graduates.

In counting years of experience for assignment to the professional engineer or professional land surveyor examination, the board may, at its discretion, give credit, not in excess of one (1) year, for satisfactory graduate study toward a master's degree and not in excess of an additional one (1) year for satisfactory graduate study toward a doctorate degree. In the event an applicant obtains a doctorate degree without first obtaining a master's degree, the board may, at its discretion, give credit, not in excess of two (2) years.

In considering the combined education and experience qualifications of applicants, the board shall consider engineering teaching, land surveying teaching, each year of satisfactory completion of undergraduate college education, advanced degrees in engineering and advanced degrees in land surveying in establishing the applicants' minimum composite knowledge and skill.

The mere execution, as a contractor, of work designed by a professional engineer, or the supervision of the construction of such work as a foreman or superintendent, shall not be deemed to be the practice of engineering, but if such experience, in the opinion of the board, has involved responsible supervision of a character that will tend to expand the engineering knowledge and skill of the applicant the board may in its discretion give such credit therefor as it may deem proper.

Any person having the necessary qualifications prescribed in this chapter to entitle him to assignment to an examination for licensure or certification shall be eligible for such assignment although he may not be practicing his profession at the time of making his application.

SECTION 2. That Section 54-1213, Idaho Code, be, and the same is hereby amended to read as follows:

54-1213. APPLICATIONS AND FEES. Applications for licensure as a professional engineer or professional land surveyor, or certification as an engineer intern or land surveyor intern, shall be on forms prescribed and furnished by the board. The application shall be made under oath, and shall show the applicant's education and a detailed summary of his engineering or land surveying experience. An applicant for licensure as a professional engineer or professional land surveyor shall furnish not less than five (5) references, of whom three (3) or more should be professional engineers or professional land surveyors, as applicable, having personal knowledge of the applicant's engineering or land surveying experience. ~~An applicant for certification as an engineer intern or land surveyor intern shall~~

~~furnish not less than three (3) references of whom at least one (1) should be a professional engineer or professional land surveyor, as applicable, having personal knowledge of the applicant's engineering or land surveying experience.~~ Applications for certificates of authorization shall be made in accordance with section 54-1235, Idaho Code.

The maximum application fee for professional engineers or professional land surveyors seeking to be licensed by ~~an eight (8) hour or longer~~ examination shall not exceed one hundred dollars (\$100). The application fee shall accompany the application. The examination fee, which shall be separate from the application fee, shall be paid by the applicant directly to the entity designated by the board.

The maximum application fee for an applicant who seeks a certificate as an engineer intern or land surveyor intern shall not exceed fifty dollars (\$50.00). The application fee shall accompany the application. The examination fee, which shall be separate from the application fee, shall be paid by the applicant directly to the entity designated by the board.

The maximum application fee for business entities seeking a certificate of authorization shall be two hundred dollars (\$200). The application fee shall accompany the application.

The amount of the license fee or certificate fee shall be fixed by the board prior to June 30th of any year and shall continue in force until changed.

Should the board deny the issuance of a certificate or license to any applicant, the application fee paid shall be retained as a processing fee.

SECTION 3. That Section 54-1214, Idaho Code, be, and the same is hereby amended to read as follows:

54-1214. EXAMINATIONS. (1) Examinations will be held at such times and places as the board directs. The board shall determine the acceptable grade on examinations.

(2) Written examinations ~~will be given in two (2) sections and~~ may be taken only after the applicant has met the other minimum requirements as given in section 54-1212, Idaho Code, and has been approved by the board for admission to the examinations as follows:

(a) Fundamentals of Engineering -- The examination consists of ~~an eight (8) hour~~ a test on the fundamentals of engineering acceptable to the board. Passing this examination qualifies the examinee for an engineer intern certificate, provided he has met all other requirements of certification required by this chapter.

(b) Principles and Practice of Engineering -- The examination consists of ~~a minimum of an eight (8) hour~~ a test on applied engineering acceptable to the board. Passing this examination qualifies the examinee for licensure as a professional engineer, provided he has met the other requirements for licensure required by this chapter.

(c) Fundamentals of Surveying -- The examination consists of ~~an eight (8) hour~~ a test on the fundamentals of surveying acceptable to the board. Passing this examination qualifies the examinee for a land surveyor intern certificate, provided he has met all other requirements for certification required by this chapter.

(d) Principles and Practice of Surveying -- The examination consists of a ~~minimum of an eight (8) hour~~ test on applied surveying acceptable to the board. Passing this examination qualifies the examinee for licensure as a professional land surveyor, provided he has met the other requirements for licensure required by this chapter.

(3) A candidate failing all or part of an examination for the first time may apply for reexamination, which may be granted upon payment of an application fee equal to the application fee for the required examination plus a separate examination fee paid by the applicant directly to the entity designated by the board. In the event of a second failure, the examinee shall be required to obtain a minimum of one (1) additional year of experience, acceptable to the board, from the date of the second examination failure, and submit evidence of having completed an additional eight (8) semester credits of college level academic education relating to the examination, before the board will consider that he has acquired the necessary additional knowledge to warrant assignment to a third examination. The separate application and examination fees shall be as set forth herein. In the event of a third or subsequent failure, the examinee shall be required to obtain a minimum of three (3) additional years of experience, acceptable to the board, from the date of the third or subsequent examination failure, and submit evidence of having completed an additional twelve (12) semester credits of college level academic education relating to the examination, before the board will consider that he has acquired the necessary additional knowledge to warrant assignment to a subsequent examination. The separate application and examination fees shall be as set forth herein.

(4) The board may prepare and adopt specifications for the written examinations in engineering and land surveying.

SECTION 4. That Section 54-1216, Idaho Code, be, and the same is hereby amended to read as follows:

54-1216. EXPIRATIONS AND RENEWALS -- FEES. Following issuance or renewal of licenses for professional engineers and professional land surveyors, expiration shall be on the last day of the month during which the licensee was born, in even-numbered state of Idaho fiscal years for those born in even-numbered calendar years and in odd-numbered state of Idaho fiscal years for those born in odd-numbered calendar years, and shall become invalid on that date unless renewed. On or after July 1, 2010, the executive director of the board shall send renewal notices to business entities that have been issued a certificate of authorization. The renewal fee amount shall be for a period of one (1) year plus a prorated annual renewal fee amount for the number of months from and including August to and including the month in which the certificate of authorization was originally issued. Thereafter, c~~C~~ertificates of authorization for business entities shall expire on the last day of the month ~~of July following issuance or renewal in which the certificates were initially issued~~ and shall become invalid on that date unless renewed. It shall be the duty of the board to notify every person licensed and every business entity certified under this chapter, of the date of the expiration of said license or certificate of authorization and the amount of the fee that shall be required for its renewal. Such notice shall be mailed to the last known address of the licensee or business

entity at least one (1) month in advance of the date of the expiration of said license or certificate of authorization. Renewal shall be effective at any time in the appropriate year during the month in which the licensee was born or during the month ~~of July~~ in which the certificates were initially issued in the case of business entities, by the payment of a renewal fee to be fixed by the board at not more than one hundred fifty dollars (\$150). The failure on the part of any licensee or certificate holder to renew his or its license or certificate biennially in the month in which they were born or in the month ~~of July~~ in which the certificates were initially issued in the case of business entities, as required above shall not deprive such person or business entity of the right of renewal, but the fee to be paid for the renewal of a license or certificate after the month in which it is due shall be increased twenty percent (20%) for each month or fraction of a month that payment of renewal is delayed; provided, however, that the maximum fee for delayed renewal shall not exceed twice the renewal fee for each renewal cycle delinquent, but in no event more than three hundred dollars (\$300). Any work performed after a license or certificate of authorization has expired, but before delayed renewal has been effected, shall become valid upon delayed renewal as if the license or certificate of authorization had not expired, but the licensee or certificate holder may be subject to disciplinary action by the board for practice on an expired license or such other action as provided pursuant to this chapter.

Following issuance or renewal of certificates for engineer interns and land surveyor interns, expiration shall be on the last day of the month during which the certificate holder was born, in even-numbered state of Idaho fiscal years for those born in even-numbered calendar years and in odd-numbered state of Idaho fiscal years for those born in odd-numbered calendar years. The notification to holders of certificates shall be processed as prescribed above for licensees except that the biennial renewal fee shall not be more than thirty dollars (\$30.00). The failure on the part of any holder of a certificate to effect renewal shall not invalidate his status as an engineer intern or land surveyor intern, but his name shall be removed from the board's mailing list.

SECTION 5. That Section 54-1220, Idaho Code, be, and the same is hereby amended to read as follows:

54-1220. DISCIPLINARY ACTION -- PROCEDURES. (1) Any affected party may prefer charges of fraud, deceit, gross negligence, incompetence, misconduct or violation of any provision of this chapter, or violation of any of the rules promulgated by the board against any individual licensee or certificate holder or against any business entity holding a certificate of authorization or against a person applying for a license or against a business entity applying for a certificate of authorization. Repeated acts of negligence may be considered as a gross act for disciplinary action. Such charges shall be in writing, and shall be sworn to by the person or persons making them and shall be filed with the executive director of the board. The executive director of the board shall be considered an affected party and may be the person making and filing the charges.

(2) All charges, unless dismissed by the board as unfounded or trivial, or unless settled informally, shall be heard by the board within six (6)

1 months after the date they were received at the board office unless such time
2 is extended by the board for justifiable cause.

3 (3) ~~Hearing~~ Administrative proceedings shall be governed by the
4 provisions of chapter 52, title 67, Idaho Code.

5 (4) If, after ~~such~~ an administrative hearing, the board votes in favor
6 of sustaining the charges, the board may, in its discretion, impose an
7 administrative penalty, not to exceed five thousand dollars (\$5,000) for
8 deposit in the general fund of the state of Idaho. In addition, the board, in
9 its discretion, may admonish, reprimand, suspend, revoke, refuse to renew,
10 refuse to grant, or any combination thereof, the individual's license or
11 certificate or a business entity's certificate of authorization. The board
12 may also, in its discretion, require the individual to practice under the
13 supervision of another licensee, or require the individual to successfully
14 complete continuing education courses as may be prescribed by the board.

15 (5) The board shall have jurisdiction over licensees whose licenses
16 are not current provided the action relates to services performed when the
17 license was current and valid.

18 SECTION 6. That Section 54-1223, Idaho Code, be, and the same is hereby
19 amended to read as follows:

20 54-1223. SAVING CLAUSE -- EXEMPTIONS. (1) This chapter shall not be
21 construed to affect:

22 (a) The practice of any other profession or trade for which a license is
23 required under any law of this state or the United States.

24 (b) The work of an employee or a subordinate of a person holding a
25 license under this chapter, provided such work does not include final
26 engineering design or land surveying decisions and is done under the
27 direct responsibility, checking, and supervision of, and verified by, a
28 person holding a license under this chapter.

29 (c) Any individual teaching upper division engineering subjects that
30 are classified as engineering design for any college or university in
31 this state as of July 1, 1988, and any such individual employed after
32 July 1, 1988, for a period of five (5) years from the date of employment
33 with any college or university in this state.

34 (d) An individual doing surveying work for himself, or through a
35 business entity, on property owned or leased by the individual or
36 business entity, or in which the individual or business entity has an
37 interest, estate or possessory right and which affects exclusively the
38 property or interests of the individual or business entity; provided,
39 that all land surveying maps, plats or plans filed with any county
40 recorder's office in the state of Idaho for the purpose of illustrating
41 or defining boundaries of property ownership, shall be made by a
42 licensed professional land surveyor as provided in this chapter.

43 (e) An individual doing survey work for himself, or through a business
44 entity with respect to the location, amendment, or relocation of a
45 mining claim.

46 (f) The practice of engineering by employees of a business entity as
47 long as the services provided by them are for internal business entity
48 use only.

1 (2) The board, at its discretion, may exempt an exceptional individual
2 who has twelve (12) or more years of appropriate experience in engineering
3 from the requirement for satisfactory completion of an examination in the
4 fundamentals of engineering.

5 (3) An applicant for licensure as a professional engineer either by
6 examination or by comity who has earned a bachelor degree in engineering from
7 an approved engineering program and has, in addition, earned a doctorate
8 degree in engineering from a college or university which offers an approved
9 undergraduate program in the same discipline as the doctorate degree earned,
10 shall be exempt from the requirement for satisfactory completion of an
11 examination in the fundamentals of engineering. Honorary doctorate degrees
12 are not considered earned degrees for purposes of this subsection.

13 (4) In addition to, and notwithstanding other provisions of this
14 chapter, in circumstances of emergency creating conditions of imminent and
15 substantial danger to the public health, safety or environment through the
16 provision of engineering services, the prosecuting attorney or the attorney
17 general may institute a civil action for an immediate injunction to halt the
18 provision of engineering services.

19 (5) A professional engineer licensed in Idaho may review the work of
20 a professional engineer who is licensed in another jurisdiction of the
21 United States or a foreign country on a project that is a site adaptation
22 of a standard design plan to determine that the standard design plan meets
23 the standard of care and is applicable to the intended circumstance, with or
24 without modification. The Idaho professional engineer shall demonstrate
25 responsible charge, as defined in this chapter, by performing professional
26 services related to his assignment including developing or obtaining a
27 complete design record with design criteria and calculations, performing
28 necessary code research and developing any necessary and appropriate
29 changes to the standard design plan necessary to properly apply the standard
30 design to the intended circumstance. The nonprofessional services, such as
31 drafting, need not be redone by the Idaho professional engineer, but must
32 clearly and accurately reflect the Idaho professional engineer's work. The
33 burden is on the Idaho professional engineer to show such compliance. The
34 Idaho professional engineer shall have control of and responsibility for
35 the entire work product, shall seal, sign and date it as required in this
36 chapter, and shall be in possession of all original documents or certified
37 copies of documents related to the professional engineer's work for the
38 project.

39 (6) In the event a licensee in responsible charge of a project leaves
40 employment, is transferred, is promoted, becomes incapacitated, dies or is
41 otherwise not available to seal, sign and date final documents, the duty of
42 responsible charge of the project shall be accomplished by the successor
43 licensee by becoming familiar with and reviewing, in detail, and retaining
44 the project documents to date. Subsequent work on the project must clearly
45 and accurately reflect the successor licensee's responsible charge. The
46 successor licensee shall seal, sign and date all work product in conformance
47 with section 54-1215, Idaho Code.